

MINUTES OF THE EXECUTIVE APPROPRIATIONS COMMITTEE
June 13, 2000 at 1:00 P. M.
Room 303, State Capitol Building

Members Present: Sen. David Steele, Committee Co-Chair
 Rep. Jeff Alexander, Committee Co-Chair
 Pres. Lane Beattie
 Sen. Leonard Blackham
 Sen Mike Dmitrich
 Sen. Paula Julander
 Rep. Patrice Arent
 Rep. Ralph Becker
 Rep. Greg Curtis
 Rep. Kevin Garn
 Rep. David M. Jones
 Rep. Brad King
 Speaker Martin Stephens
 Rep. David Ure

Sen. John Valentine, Vice-Chair

Members Excused: Sen. Lyle Hillyard

Members Absent: Sen. Gene Davis
 Sen Scott N. Howell
 Sen. Al Mansell
 Rep. Tom Hatch

Staff Present: John Massey, Legislative Fiscal Analyst
 Michael Kjar, Fiscal Analyst
 Linda Hansen, Secretary

Others Present: Spencer Pratt
 Steve Allred
 Courtland Nelson
 Kevin Walthers
 Jonathan Ball
 Steve Proctor
 Jake Hunt
 Boyd Garriott

List of Others Present on File:

Committee Co-Chair Steele called the meeting to order at 1:10 p.m.

1. **Approval of Minutes**

Pres. Beattie made a motion to approve the minutes of May 16, 2000. The motion passed unanimously.

2. **Update on State Revenue Issues**

John Massey, Legislative Fiscal Analyst, gave an update on state revenue issues. He reported General Fund potential surplus for FY 2000, \$5-10 million and FY 2001, \$5-10 million; and Uniform School Fund potential surplus FY 2000, \$50-75 million and FY 2001 \$10-30 million.

Mr. Massey said a range in the potential surplus has been given because of some things that are not settled at this time.

Mr. Massey said the majority of the surplus in the Uniform School Fund should be considered one-time surplus.

Mr. Massey reviewed offsets against any surplus as follows: Rainy Day Fund 25 percent of General Fund surplus; shortfall in Corrections compensation \$1,500,000; cover with new revenue one-time to ongoing of approximately \$16,000,000; and debt service on Centennial Highway Fund \$2,612,900.

Income Tax:

Mr. Massey said that final payments in Income Tax are up 45 percent this year compared to last year at this time when they were down 5 percent. There are still over 100,000 return to be processed which could lower the anticipated surplus. Major factors contributing to the income tax surplus are bonuses and capital gains. Income Tax surpluses are occurring in every state. The stock market this year probably won't create the same level of capital gains as we are seeing in FY 2000. Withholding has been strong over the last three months (9.5 percent).

Sales Tax:

Mr. Massey said spending has slowed due to smaller in migration and Utah consumers are beginning to save more.

Severance Taxes:

Mr. Massey said oil and gas prices per barrel are up from \$12 last year to approximately \$25 to \$27 this year. He said this is generating enough revenue to overcome declining production.

Mr. Massey said that while the surplus is good news, he reminded the Committee that there are some issues that will have to be taken care of.

In summary Mr. Massey said there are surpluses but most of them are one-time in nature.

Mr. Massey advocated some of the surplus going to the Rainy Day Fund in addition to the General Fund potential.

Mr. Massey responded to questions of the Committee.

3. **Update on Tobacco Settlement**

Spencer Pratt, Fiscal Analyst, said the State received the first two initial payments from the tobacco manufacturers via the Master Settlement Agreement at the end of 1999. On April 17, 2000, the State received its first annual payment.

Mr. Pratt said that until July 1, 2003, 50 percent of the tobacco settlement funds will go into the restricted account. After July 1, 2003, the amount is reduced to 40 percent. Appropriations from the restricted account will be made in the following order: \$5.5 million to cover the State's share of the Children's Health Insurance Program; \$4.0 million to the Department of Health for alcohol, tobacco, and other drug prevention; \$2.0 million for drug courts and a drug board pilot program; and \$4.0 million for the University of Utah Health Sciences.

The tobacco settlement endowment was reviewed by Mr. Pratt. Until July 1, 2003, 50 percent of the tobacco settlement funds will go into the endowment fund and after July 1, 2003, the amount is increased to 60 percent. The endowment funds will be invested in common investment instruments by the treasurer. Appropriations from the endowment fund are limited to 50 percent of the endowment's earnings. The other 50 percent will remain in the endowment fund.

Mr. Pratt reviewed a class action lawsuit in Florida which could convince many of the major tobacco companies to declare bankruptcy.

The three payments that have been made total \$36,409,593, but \$9,102,398 has been

held in Federal Court for attorneys' fees, leaving \$27,307,195 in the bank.

Mr. Pratt responded to questions of the committee.

4. **Parks and Recreation Planning Process**

Steve Allred, Fiscal Analyst, said the purpose of this report is to show funding levels and put them in historical, as well as statewide, perspective.

Mr. Allred said the statute requires the Division to "be the parks and recreation authority for the State of Utah. As the Division has evolved over the years, there has arisen a great deal of leeway for philosophical differences. He cited some examples:

- C Should the state continue to subsidize parks due to their historical and community value:
- C Should state subsidization also extend to recreational activities?
- C Should the Division operate like a business and make operating decisions based solely on fiscal data?
- C It is appropriate for the Division to act as an administrator of museums?

Mr. Allred indicated that the Natural Resources Appropriations Subcommittee has adopted the philosophy that the Division should increase the proportion of its revenues from user fees (dedicated credits). The Division has responded accordingly by increasing fees and decreasing its reliance on general funds. Actions in the last year include:

- C The Parks Board approved increases to most fees
- C The Legislature passed SB 103, "Fees for State Golf Courses," which raised golf course user fees at the four golf parks
- C Many parks have begun non-traditional activities—such as nighttime walks, bike rides, and guest speakers—to attract people to parks at off-peak times.

Dedicated credits are slowly growing as a percentage of the Division's budget. In FY 1995, dedicated credits accounted for 29 percent of the operating budget. The FY 2001 appropriation sets dedicated credits at 34 percent of the operating budget.

Mr. Allred said the park fee structures vary significantly in the western states. He said a comparison of the Division's fees with those of nine other western states shows that Utah's rates are among the highest of the ten. Making direct comparisons is difficult because of differing fee structures, with Utah's structure being more complex.

Mr. Allred reviewed fee structures for some other states.

Concerns with dependence on fees were discussed. Dependence on fees does have a downside. While it can increase revenues during good times, it also creates an uncertain cash flow. Raising fees can lower visitation, ultimately flattening revenues and denying park services to a segment of the population. Increasing visitation has the downside of accelerating wear and tear expenses.

Another possible downside of reliance on fees is skewed priorities in favor of parks whose purpose or location brings in attendance, even though more remote heritage parks may be equally important to the state.

Visitations have leveled off in the last six years. Increased revenue from dedicated credits has been a function of fee increases, not growth in visitation. The Analyst believes this is because popular parks are already full at peak times. At this point, therefore, significant revenue increases would most likely have to come from sources other than increased visitation.

Utah is not alone in its struggle to find money for capital facilities. Like parks in most other states, Utah's parks are suffering not from low visitation, but from age and high visitation.

Mr. Allred reviewed the years in which the state parks were opened.

The Division of Facilities Construction and Management is in the process of completing facility evaluations on the state parks. Approximately one third of the evaluations have been completed. These evaluations are focused on existing buildings, not necessarily campgrounds or future enhancements.

Capital improvement needs at selected parks were reviewed.

Park funding is influenced by public policy and Great Salt Lake State Park was cited as an example.

Great Salt Lake State Park is one of four parks whose revenues matched or exceeded their operating expenditures in FY 1999. At other parks, revenues are substantially lower than operating expenditures. For example, the Territorial Statehouse collected \$16,300 in revenues against \$173,300 in operating expenditures. The facility is in need of extensive capital improvements costing millions of dollars. Is the heritage value of the Territorial Statehouse such that taxpayers should subsidize it?

Park visitation, operating revenues and expenditures were reviewed on Table 3, Page 7 of the handout.

Parks is receiving a significant share of available state dollars for improvements.

New federal funds may be available for improvements. A federal bill entitled "Conservation and Reinvestment Act (CARA) has passed the House and is currently in Senate committee.

The Analyst made the following recommendations:

- a. The Parks Board should continue enhancing revenue from the fee structure. Options already used in other state include eliminating the free day pass to senior citizens, charging higher rates at peak demand times, and charging higher rates to nonresidents.
- b. The Legislature should avoid funding capital developments at state parks without considering the increased maintenance costs that result from such development. Already, parks facilities are deteriorating faster than the .9 percent funding process is repairing them. The Analyst does not recommend setting a different formula for state parks, however, consideration should be given to the question, "is there revenue to maintain this facility?"
- c. The Division of Parks and Recreation should have a formal evaluation/ranking process for deciding when state parks ought to be recommended for closure. The Analyst recognizes that several state parks are required by statute; closing these parks would require a statutory change. In the 1997 General Session, the Natural Resources Appropriations Subcommittee requested that the Parks Board and the Division Director identify a minimum of two parks that could be either closed or transferred in partnership to a local entity. The Division responded by transferring management of the Rail to Trail Parkway to Park City, transferring a portion of Jordan River Parkway to Salt Lake City, and recommending a transfer of the Veterans Cemetery.

Courtland Nelson, Director of the Division of Parks and Recreation, cited Great Salt Lake Park as an example and said all boating park budgets are supplemented with restricted boating dollars and parks with off-road vehicles are supplemented with restricted dollars also.

Mr. Nelson reviewed a form for state park evaluation, new state parks, and state park property additions.

Mr. Nelson and Mr. Allred responded to questions of the Committee.

Mr. Nelson responded to the recommendations made by the analyst as requested by Co-Chair Steele. Mr. Nelson indicated they would need some guidelines such as money only, or historical issues, local economic issues, partnerships, and strictly what money can be saved by closing what parks. Another concern is relationship issues with the Bureau of Reclamation and other agencies.

Mr. Nelson said the recommendation eliminating the free day pass to senior citizens would not be a big increase in fees but would be helpful. He recommended that the Disabled Veterans maintain their free access.

Co-Chair Steele complimented the Division of Parks and Recreation in doing a good job of maintenance of the parks.

Report on State Facilities - Square Footage

Kevin Walthers, Fiscal Analyst, said there are three areas to be addressed. What is owned, what is in the pipeline for the future, and comparison of other states.

More than two-thirds of state owned facilities in Utah are managed by the Utah System of Higher Education. The next largest space users are Human Services, the Department of Corrections, Courts, and the Department of Transportation. Combined these four agencies comprise more than forty-five percent of non-higher education space but only nineteen percent of the total space. These space utilization patterns are repeated nationwide, an indicator that state governments are primarily responsible for education, justice and highway maintenance.

Comparing state space ownership and utilization is difficult, if not impossible. Variances in population, economy and urbanization are major factors that create unique needs for each state.

The State of Utah manages nearly 38 million square feet of building space, two-thirds of which is part of the Utah System of Higher Education. Table 1 in the handout identifies occupancy of approximately 14.5 million square feet of non-higher education space owned or leased by the State of Utah.

Mr. Walthers said the Executive Branch does not track building maintenance as a separate expenditure category. The Analyst is confident that Operation and Maintenance expenditures actually exceed verifiable estimates by a significant amount.

DFCM manages approximately 4 million square feet at an average rate of \$3.58 per square foot.

Higher Education tracks operation and maintenance as an expenditure category. In Fiscal Year 1999, the Utah System of Higher Education spent \$80,230,120 for O & M, an average of \$3.43 per square foot.

Future anticipated space is reflected on Table 3, Page 6.

Capital assets in a regional context were reported. Differences between states may be caused by a number of factors including policy decision, population, economy, number of highways, incarceration rates, or the influence of public employee labor organizations.

Space per employee is shown on Table 5, Page 7, with Utah below the eight state average of 703 square feet per state employee.

Higher Education space is difficult to compare. Utah funds all post-secondary education through the state while Arizona funds three universities at the state level and offers some assistance to local community colleges.

Mr. Walthers concluded that each year the Legislature attempts to determine if facilities drive programs or if programs necessitate facilities. Facilities maintained or built for core programs are easily justified, but the State must guard against allowing "filler" programs to take up valuable space with non-essential functions. In response to Legislative requests, the Utah System of Higher Education attempts to direct large donors toward projects that will address student growth and classroom needs. This new emphasis on using non-state funds to address capital needs generated by growth helps the State defer initial costs, but still requires adequate funding to meet the needs of the institutions as they take on more students.

As the state grows the demand for new facilities will continue to be strong. This will be particularly true for institutions of higher education applied technology centers and in more rural areas that do not have options to pursue large leases. In addressing capital needs for these circumstances, the Legislature should consider plans that allow agencies to share buildings with other state agencies or with local governments. Cooperative arrangements can enhance local facilities while improving access to state services. In education, the State should insist that local school districts work with higher education and applied technology centers to fully utilize buildings before new space is leased or built.

Full utilization could be driven by appropriation subcommittees as they address annual operation and maintenance funding. Rather than focus on aggregate data, the Legislature may want to have appropriation subcommittees ask their agencies to adopt a zero based facility planning system to justify space utilization each year. Such a system may result in agencies finding more creative ways to meet their space needs.

Attachments A of the handout on square footage of pending projects was reviewed.

Mr. Walthers responded to questions of the Committee.

6. **UCAN (Utah Communications Agency Network) - Report on Policies and Procedures**

Jonathan Ball, Fiscal Analyst, gave a summary that House Bill 1, 2000 General Session requires the Utah Communications Agency Network (UCAN) to report progress on certain management issues to the Executive Appropriations Committee prior to receiving Federal funds from the Utah Department of Public Safety (DPS). UCAN and DPS have begun to address these issues. Their solutions have not yet been verified by the State Auditor.

The act also requires UCAN to adopt “budgetary procedures, accounting, procurement, and personnel policies substantially similar” to those of state government. It directs the State Auditor to determine whether UCAN has complied with the above requirement.

The State Auditor found fault with UCAN’s management practices and questioned DPS’s relationship with UCAN. Among the Auditor’s concerns was that UCAN and DPS did not have in place a formal sub-grant agreement specifying conditions for the allocation of Federal funds. The Auditor also stated that UCAN had not adopted “sufficient budgetary or administrative procedures”. Also the Auditor noted that UCAN had received office space and certain services from DPS in absence of a formal contract.

The Legislature set conditions for UCAN’s receipt of Federal funds in two pieces of intent language.

The Analyst recommends that, after hearing an interim report from UCAN, the Executive Appropriations Committee refer this matter to its newly created Quasi-Governmental Entities Subcommittee for follow-up review. The Analyst recommends such review take place just prior to, or at the beginning of the next legislative session at which time the State Auditor will likely have completed its second annual audit of

UCAN.

Steven Proctor, Executive Director Utah Communications Agency Network, presented a power point presentation on sites, system construction, equipment, subscribers, fiscal issues, and grants.

Mr. Proctor and Jake Hunt, Chief Deputy Davis County Sheriff's Office responded to questions of the Committee.

Motion: Co-Chair Alexander moved to accept the Analyst's recommendation to refer this matter to the Quasi-Governmental Entities Appropriations Subcommittee and in so doing consider this intent language met and also report to the Executive Appropriations Committee in October.

The motion passed unanimously with Rep. Curtis absent at the time of voting.

7. **Higher Education Concurrent Enrollment/Advanced Placement**

Boyd Garriott, Fiscal Analyst, said the Concurrent Enrollment Program offers selected college courses in general and applied technology education available to high school students for both high school and college credit.

The Concurrent Enrollment Program fulfills a variety of needs. This includes enriching the academic experience of high school students faced with limited high school course options, and accelerating these students through higher education or toward a technical career at a faster pace.

The Board of Regents' guidelines limit concurrent enrollment courses to "introductory level course work that allow students to satisfy some general education requirements." However, the variety of course offering is vast. The issue of concern is whether USHE institutions should offer a broad range of college courses on the high school campus that may overlap the high school curriculum.

- C Is it prudent for all USHE institutions to offer general education and lower division major course work for all majors on high school campuses?
- C Should the number of courses offered through current enrollment be narrowly focused to meet only core post-secondary general education requirements or provide technical skills for vocational students beyond the scope of a high school curriculum?

- C Are there processes in place to ensure that concurrent enrollment courses are of equivalent quality and academic rigor as those courses taken by traditional college students?

Nearly all of the funding for concurrent enrollment is allocated through the public education budget. The distribution of these funds for instruction is on the basis of up to \$1,500 per full-time equivalent (FTE) student. The school districts and higher education institutions negotiate the distribution of these funds. Funding issues for concurrent enrollment include:

- C Does the current level of funding concurrent enrollment cover the cost of instruction in the high school classroom? Through distance delivery networks?
- C How are concurrent enrollment funds distributed in public education and higher education?
- C Who should receive and manage concurrent enrollment funds?
- C Is there a double funding issue association with the funding of concurrent enrollment?

The Utah Code stipulates that concurrent enrollment students are not required to pay tuition and fees to participate in this program. When a student of concurrent enrollment takes a college course at the high school, costs are limited to books and a one-time admission fee. However, secondary students taking a college class on a USHE campus may be assessed tuition and fees.

- C When tuition and fees are charged to non-matriculated high school students attending class on a higher education campus, who pays, the student or the school district?

There is some evidence that students who participate in the Concurrent Enrollment Program are not completing college earlier than those students who do not participate, and that students are not taking concurrent courses systematically in accordance with an education plan.

- C How can concurrent enrollment students be accelerated through the system of higher education?
- C Would additional high school and college advisors ensure students are not

randomly taking courses that do not align with their Student Education Occupation Plan, as well as meet general education requirements or the Associate Degree requirements?

Since July of 1999, a cooperative effort between the Utah System of Higher Education and the State Board of Education has been made to determine student preparedness in collegiate studies.

- C Should USHE institutions establish eligibility criteria for student participation that is consistent with Regent Policy and is standardized and uniformly applied across the system of higher education?

Mr. Garriott concludes that with continued pressure of increased funding in Public and Higher Education, it becomes imperative that existing programs be evaluated for effectiveness. It is recommended that the Legislature review the issues identified by the Legislative Fiscal Analyst's Office for this report. It is further recommended that the Legislature give appropriate policy input and direction, and that a more in-depth study of this program be conducted and reported to the Legislature by November 2000.

Mr. Garriott responded to questions of the Committee.

Jerry Peterson, Associate Superintendent State Office of Education, said the concurrent enrollment is a very successful program. He mentioned the credit hour ratio and the need for determination of screening issues. He said there is a wonderful cooperative arrangement between Higher Education and Public Education.

Michael Petersen, Associate Commissioner Board of Regents, said the partnership is working well on concurrent enrollment. He said they place a great importance on the program and they are working hard to identify weaknesses and make the program a success.

Jerry Peterson and Michael Petersen responded to questions of the Committee.

Co-Chair Steele asked if there are other questions than the Fiscal Analyst to be addressed.

Rep. Garn expressed the need for a reconciliation on the double funding issues.

Con Rowley, Governor's Office, cited an example of accelerated learning at Eureka

High School and complimented the Legislature for this opportunity provided for the students.

8. **State and Higher Education - FTE Counts (Tentative)**

This matter will be continued until the next meeting.

Co-Chair Steele expressed appreciation to Pres. Beattie since this will be his last meeting due to his resignation.

Speaker Stephens thanked Pres. Beattie for his service and cooperation.

Sen. Julander complimented Pres. Beattie for his wonderful leadership.

Pres. Beattie expressed his gratitude for the opportunity to serve and that it has been a glorious time of his life and an incredible experience.

Motion: Pres. Beattie moved to adjourn.

Committee Chair Steele adjourned the meeting at 3:50 p.m.

Minutes were reported by Linda Hansen, Secretary.

Sen. David H. Steele, Committee Co-Chair

Rep. Jeff Alexander, Committee Co-Chair

Handouts:

Revenue Update
Update of Tobacco Settlement
Division of Parks and Recreation Funding
State Park Evaluation
Conservation and Reinvestment Act
Utah Square Footage Update
Utah Communications Agency Network Compliance with Intent
Concurrent Enrollment

